

Effective 31 July 1999

**Military Police**

**Procedures in Drunk Driving Cases**

For the Commander:

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**History.** This UPDATE revises USAREC Reg 190-3 which is effective 31 July 1999.

**Summary.** This regulation prescribes policies and procedures for drunk driving incidents involving United States Army Recruiting Command personnel.

**Applicability.** This regulation is applicable to all military personnel or civilian recruiters assigned or attached to the United States Army Recruiting Command.

**Proponent and exception authority.** The proponent of this regulation is the Staff Judge Advocate. The proponent has authority to approve exceptions to this regulation that are consistent with controlling law and regulation.

**Army management control process.** This regulation contains management control provisions in accordance with AR 11-2 but does not identify key management controls that must be evaluated.

**Supplementation.** Supplementation of this

regulation is prohibited.

**Suggested improvements.** The proponent agency of this regulation is the Office of Staff Judge Advocate. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQ USAREC (RCSJA), Fort Knox, KY 40121-2726.

**Distribution.** Distribution of this regulation has been made in accordance with USAREC Pam 25-30, distribution A. This regulation is printed in the Recruiting Station Administration UPDATE.

**Contents** (Listed by paragraph number)

Purpose • 1  
References • 2  
Explanation of abbreviations and terms • 3  
Responsibilities • 4  
Policy • 5  
Procedures • 6

**Appendix A.** References

**Glossary**

**1. Purpose**

This regulation sets out procedures and information in drunk driving cases for:

- a. Suspension and reinstatement of driving privileges for government vehicles.
- b. Written general officer (GO) reprimands.
- c. Nonjudicial punishment (Article 15) for drunk drivers.

**2. References**

For required and related publications and blank forms see appendix A.

**3. Explanation of abbreviations and terms**

Abbreviations and special terms used in this regulation are explained in the glossary.

**4. Responsibilities**

- a. Commanders will ensure that members of their command are reminded of the adverse effect drunk driving incidents will have on their careers.
- b. Commanders will review the service records of soldiers involved in drunk driving incidents to determine if administrative reduction, bar to reenlistment, administrative separation, or other

adverse action is warranted.

c. All personnel are required to report immediately to their recruiting company (Rctg Co) commander or next more senior commander, if appropriate, all known or suspected cases of drunk driving.

d. Recruiting battalion (Rctg Bn) commanders are required to include training on the provisions of this regulation during the annual training conference.

**5. Policy**

a. Drunk driving is serious misconduct, service discrediting, and inimical to the public image of this command. Commanders will ensure that appropriate actions are taken quickly but fairly.

b. Upon receiving information of any drunk driving incident or driving under the influence of drugs by one of their soldiers, commanders must forward evidence of such incidents directly to Headquarters, United States Army Recruiting Command (HQ USAREC), Staff Judge Advocate (SJA), for issuance of a written reprimand in accordance with AR 190-5 and paragraphs 6b(1) through (5) of this regulation. Suspension of government driving privileges is required for all incidents of drunk driving as provided in paragraph 6a.

c. Drunk driving or driving under the influence of drugs is considered a serious incident and must be reported to HQ USAREC in accordance with USAREC Reg 380-4 utilizing USAREC Fm 958 (Incident Information Report).

**6. Procedures**

a. Suspension of government driving privileges for soldiers and civilian recruiters.

- (1) The Rctg Co commander will suspend gov-

ernment driving privileges immediately when any one of the following occurs:

(a) the individual is charged with drunk driving or driving under the influence of drugs;

(b) the individual has a blood alcohol content (BAC) of at least 0.05 percent or in violation of state law, whichever is lower, if the sample was taken because the individual was driving, operating, or in actual physical control of a motor vehicle;

(c) the individual refuses to take a lawfully requested chemical test; or

(d) other credible evidence of drunk driving, such as physical observation or field sobriety tests by law enforcement or medical personnel, supports a determination of drunk driving regardless of the disposition of any charge by local or military authorities.

(2) Government driving privileges will be suspended whether or not the civilian driver's license was suspended.

(3) The suspension will remain in effect until:

(a) final disposition (i.e., findings and sentence) of any charge related to drunk driving;

(b) return of any state driving privileges that were suspended or revoked (written evidence should be provided by the soldier); and

(c) the Rctg Bn commander, after such disposition has occurred, makes a written determination that the individual's driving presents no discernible risk stemming from alcohol or drug abuse. Normally, the Rctg Bn commander's recommendation will be based on a favorable Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) referral.

(4) Privately-owned vehicles may not be used to transport applicants, prospects, or contacts during performance of official duties while government driving privileges are suspended.

\*This regulation supersedes USAREC Regulation 190-3, 30 June 1989.

b. Drunk driving written reprimands for soldiers.

(1) The soldier will be flagged immediately in accordance with AR 600-8-2. The flag will remain in effect until a written reprimand is issued and a filing determination is made or it is determined by HQ USAREC that a written reprimand is not warranted.

(2) The following procedures are established for processing drunk driving written reprimands:

(a) Within 14 days of learning about a drunk driving incident, the soldier's Rctg Bn commander will gather the best evidence readily available and forward that information directly to HQ USAREC (RCSJA), Fort Knox, KY 40121-2726. A separate copy of this evidence will be sent to the brigade judge advocate (BJA).

(b) The best evidence readily available normally will include:

1. Military or civilian police reports including all statements and other documents.

2. Results of field sobriety, breathalyzer, and blood alcohol or other chemical tests.

3. Reports of refusal to complete or to consent to chemical testing.

4. Records of civil court (or federal magistrate) convictions with the specific charge of which the soldier was convicted.

5. All drunk driving citations (to include traffic tickets resulting from the drunk driving).

6. Prior drunk driving incidents.

7. A statement of the soldier's duty performance while assigned to the United States Army Recruiting Command.

(c) This information will be forwarded even if civilian court (or federal magistrate) proceedings are pending. If the incident occurs on a military installation, the Rctg Bn or immediate commander will explain whether the installation is processing a written GO reprimand for the incident.

(d) The Rctg Bn commander will include a statement of alcohol rehabilitation status. Military personnel who are apprehended for drunk driving (on or off duty) shall be referred to the local ADAPCP in accordance with AR 600-85. If the individual is not referred to ADAPCP, the commander will provide a written explanation.

(e) The Rctg Bn commander will explain what disciplinary and other actions have been taken or are contemplated. A bar to reenlistment normally should be initiated if the criteria for a written reprimand is warranted. The commander's explanation is particularly important in the case of repeat offenders.

(f) USAREC Fm 943 (Drunk Driving Incident Information) (see fig 1) will be used for providing the required information.

(g) The SJA will prepare the written reprimand. When signed by a GO, the written reprimand will be sent directly to the Commander, United States Army Recruiting Support Battalion or Rctg Bn commander, to obtain the soldier's acknowledgment or rebuttal. A copy will be provided by SJA to the recruiting brigade commander. (For cases involving the headquarters staff, consult the SJA Office.)

(3) The written reprimand will be returned by the soldier directly to their immediate commander. That commander will provide their rec-

ommendation on filing of the written reprimand and the following information:

(a) An update on the status of rehabilitation.

(b) Any related disciplinary and adverse administrative action regarding the soldier.

(4) Intermediate commanders will provide recommendations on the filing of the written reprimand. The BJA will monitor the processing of the file for timeliness and review the file to ensure that it is complete.

(5) Upon receipt at this headquarters, the appropriate GO will make the decision on filing the written reprimand in accordance with AR 600-37.

c. Nonjudicial punishment.

(1) The authority to impose nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice for drunk driving is withdrawn from Rctg Co commanders in accordance with AR 27-10, paragraph 3-7c. Any nonjudicial punishment in such cases will be imposed by Rctg Bn or higher commanders.

(2) The BJA or SJA should be consulted prior to imposition of nonjudicial punishment for drunk driving or related misconduct. Because civilian courts (or federal magistrates) usually try drunk or impaired driving offenses in the continental United States, nonjudicial punishment usually should only be used when other misconduct is involved, such as driving a government vehicle within 8 hours of drinking alcoholic beverages.

d. Any disciplinary action involving civilian recruiters must be coordinated with the servicing civilian personnel office in accordance with AR 690-700, chapter 751.

e. Questions on any aspect of this regulation should be addressed to SJA at DSN 536-0547 or commercial (502) 626-0547.

## DRUNK DRIVING INCIDENT INFORMATION

(For use of this form see USAREC Reg 190-3)

**INSTRUCTIONS:** Fill in the information requested below and attach the necessary documentation. Then forward this document directly to the Office of the Staff Judge Advocate, HQ USAREC, Fort Knox, KY 40121-2726. Use continuation sheets if needed.

1. Personnel involved.

- a. Grade, Name, and SSN: SSG Thomas R. Recruiter 000-00-0000
- b. Duty Position and Service Component: Reserve Recruiter U.S. Army Reserve
- c. Organization (Rctg Co and Rctg Bn): Hometown Co., Doesville Bn

2. Circumstances

- a. Date and place (to include city and state): 5 Jun 99, 1200 Elm Street, Hometown, Kansas
- b. How incident arose (e.g., stopped for speeding, had accident, etc.): SSG Recruiter lost control of his vehicle and struck another vehicle. The police officer who investigated the accident observed that SSG Recruiter was apparently intoxicated.
- c. Law enforcement agency involved: Hometown Police Department
- d. Injuries and/or property damage: SSG Recruiter's vehicle suffered an estimated \$1,500 damage to its front end. There was minor damage to the other vehicle. No injuries.
- e. Privately-owned vehicle (POV) or government-owned vehicle (GOV): POV
- f. Blood alcohol content: .178 percent g. Type of test: ☐ Blood ☐ Breath ☐ Urine

3. Civilian actions.

- a. Court date and/or results: 16 Jun 99, SSG Recruiter pled guilty to drunk driving.
- b. Punishment by civilian authorities: \$500 fine, 1 year unsupervised probation.
- c. Rehabilitation program, if any: Enrolled in alcohol class (equivalent to Track II).
- d. License suspended, length of suspension: Yes, 90 days.

4. Military actions (Flag, government driving privileges suspended, Article 15, bar to reenlistment, etc.): On 6 Jun 99, government driving privileges suspended; a bar to reenlistment was initiated.

5. All previous alcohol related incidents (dates and circumstances): None

6. Rctg Bn commander intentions for either recommending separation or retention on active duty, and rationale for the recommendation are attached. Yes X

7. Statement of soldier's duty performance while assigned to USAREC is attached. Yes X

8. Military alcohol and/or drug rehabilitation screening done. Yes X No     

Status: Attending alcohol awareness/education classes (accepted as equivalent to Track II).

9. Supporting documents. Attach copies of civilian or military police reports, court records, blood and/or breathalyzer test, and any documents which provide information regarding the incidents.

\_\_\_\_\_  
Rctg Bn S1 or Commander

USAREC Fm 943, Rev 1 Nov 94 (Previous editions are obsolete)

Figure 1. Sample of a completed USAREC Fm 943

## **Appendix A References**

### **Section I Related Publications**

#### **AR 27-10**

Military Justice.

#### **AR 190-5**

Motor Vehicle Traffic Supervision.

#### **AR 190-40**

Serious Incident Report.

#### **AR 385-55**

Prevention of Motor Vehicle Accidents.

#### **AR 600-8-2**

Suspension of Favorable Personnel Actions  
(Flags).

#### **AR 600-8-24**

Officer Transfers and Discharges.

#### **AR 600-37**

Unfavorable Information.

#### **AR 600-85**

Alcohol and Drug Abuse Prevention and Control  
Program.

#### **AR 635-200**

Enlisted Personnel.

#### **AR 690-700**

Personnel Relations and Services (General).

#### **UCMJ**

Uniform Code of Military Justice.

#### **USAREC Reg 56-1**

Management of Government-Owned Vehicles.

#### **USAREC Reg 380-4**

Security Program.

### **Section II Required Form**

#### **USAREC Fm 943**

Drunk Driving Incident Information.

### **Section III Related Form**

#### **USAREC Fm 958**

Incident Information Report.

#### **USAREC Fm 958-R-E**

Incident Information Report.

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#### **FOOTNOTES:**

1. Electrically generated for use with Formflow  
Software.

## **Glossary**

### **Section I Abbreviations**

#### **ADAPCP**

Alcohol and Drug Abuse Prevention and Control Program

#### **BAC**

blood alcohol content

#### **BJA**

brigade judge advocate

#### **GO**

general officer

#### **HQ USAREC**

Headquarters, United States Army Recruiting Command

#### **Rctg Bn**

recruiting battalion

#### **Rctg Co**

recruiting company

#### **SJA**

Staff Judge Advocate

### **Section II Terms**

#### **drunk driving**

Driving, operating, or other actual physical control of a motor vehicle while intoxicated or impaired due to the use of alcohol or drugs in violation of state or federal law. In cases where evidence of BAC is available, intoxicated driving refers to a BAC of 0.10 percent or higher, or is in violation of state law. Impaired driving refers to a BAC of at least 0.05 percent, but less than 0.10 percent, or in violation of state law.

#### **government vehicles**

This term includes motor vehicles owned, rented, or leased by any department of the federal government.